Attorney Docket No.: 59629-8011.US01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Yi-Hsung Pang

Application No.: 10/679,051

Filed: October 2, 2003

For: Braking Buffer And Turning Enhancement Device For Motorcar

Confirmation No.: 5322

Art Unit: 3683

Examiner: Thomas J. Williams

REPLY BRIEF UNDER 37 C.F.R. § 41.41

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Reply Brief responds to the Examiner's Answer mailed on June 3, 2008 in the above-identified application, and is in furtherance of the Notice of Appeal filed on December 26, 2007, the Appeal Brief filed on March 3, 2008, and the Amended Appeal Brief filed on April 9, 2008.

I. STATUS OF CLAIMS

The application was initially filed with 11 claims. Claims 1-11 were canceled and claims 12-30 were added in the amendment and response to the Office Action filed on July 13, 2004.

Claims 12-30 are pending in this application. Claims 12-30 stand rejected under 35 U.S.C. § 103(a).

Claims 12-30 are the subject of the present appeal.

II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. The Issues on Appeal

The issues on appeal and the specific pending claims to which each relates are:

1. Whether under 35 U.S.C. § 103(a) claims 12, 14-16, 19, 20, 26, 27, and 28 are obvious over U.S. Patent No. 3,614,126 ("Carlson") in view of U.S. Patent No. 3,501,167 ("Palowsky").

2. Whether under 35 U.S.C. §103(a) claims 17, 18, 21, and 22 are obvious over Carlson in view of Palowsky as applied to claims 12 and 19, and further in view of U.S. Patent No. 2,155,130 ("Hanel").

3. Whether under 35 U.S.C. §103(a) claims 23-25, 29, and 30 are obvious over Carlson in view of Palowsky as applied to claim 12, and further in view of U.S. Patent No. 4,588,206 ("Powers").

III. ARGUMENTS IN REPLY TO EXAMINER'S ANSWER

In the following sections, the appellant summarizes arguments raised by the Examiner in the Examiner's Answer and addresses these arguments in an order corresponding to the argument in the Amended Appeal Brief.

A. It Is Improper to Combine the Carlson and Palowsky References Because Both References Teach Away From the Claims

On pages 6-7 of the Examiner's Answer, the Examiner states the following:

> With regards to claims 12-16, 19, 20, and 26-28, the Examiner admits that Carlson fails to teach the specific claimed structure of the braking buffer, but does teach the concept of having braking buffers functionally operable in both the front to rear direction of the car, as well as the side to side direction of the car. However, it is noted that Carlson does acknowledge the existence of braking buffers having a weight displaceable along a single axis track, see column 1 lines 36-46, and the shortcomings that such buffers poses.
>
> …
>
> In particular, Palowsky teaches a braking buffer having a guide axis 7, a weighty drum 8 confined to and moveable along the axis, the drum has a predefined rest position (see figure 2), and a recovery device 10. The drum would have moved along the track as claimed when mounted in the front to rear direction of the vehicle as envisioned by Carlson. With specific regards to claims 12, 16, and 27, the orientation in which the buffer device of Palowsky is mounted is considered irrelevant by the examiner, since the examiner relies only on Palowsky for teaching a specific construction of a braking buffer and not how it is oriented on the vehicle.

First, although the Examiner states that the devices taught by Carlson are functionally operable in both the front-to-rear direction of the car, as well as the side-to-side direction of the car, Carlson actually teaches away from the use of stabilizing devices in which a weight is mounted for movement in slots which act as guides to permit movement of the mass in these directions. Carlson teaches that devices of this kind are severely limited with regard to external force vectors for which stabilization can be provided by the mass. [Carlson, col. 1, lines 48-54].

Second, while Palowsky does teach a vehicle stabilizer with a cylindrical weight mounted on a shaft, Palowsky goes on to teach that the cylindrical weight has a longitudinally extending void in its upper portion to position the weight's center of gravity in the lower portion of the weight below the longitudinal axis of the shaft. Thus, the resultant moment of inertia of the weight counteracts the front-to-rear pitching movement of the vehicle, while the resistance to the sliding movement of the weight on the shaft simultaneously counteracts the lateral movement of the vehicle. [Palowsky, col. 1, lines 58-70] Further, Palowsky states that the dual counteraction effect is not afforded by prior inertia-type stabilizers because the center of gravity of the weight extends through the longitudinal axis of the shaft. [Palowsky, col. 1, line 71 – col. 2, line 2] Thus, Powers teaches away from the claimed invention which has a weighty drum with a center of gravity around the guiding axis.

According to MPEP § 2141.02, Part VI, ("Prior Art Must Be Considered In Its Entirety, Including Disclosures That Teach Away From The Claims"), a prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W. L. Gore & Associate, Inc. v. Garlock, Inc.,* 721 F. 2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984) Applicant submits that not only does Carlson teach away from the use of stabilizing devices mounted along fixed axes, but Palowsky also teaches away from inertia-type stabilizers having a weight with a center of gravity extending through the axis of the guide shaft. In contrast, in the claimed invention buffer devices are mounted on fixed guiding axes, either longitudinally along a car (independent claims 12 and 26-28) or transversely across the car (independent claim 28). Moreover, the claimed weighty drums do not have a shifted center of gravity below the guiding axes as taught by Palowsky. Thus, it is improper to combine the Carlson and Palowsky references.

B. The Examiner Has Failed to Identify the Prior Art that Teaches All the Elements of the Pending Claims

On page 6 of the Examiner's Answer, the Examiner states the following:

> The applicant's position that the examiner has failed to identify the prior art that teaches all the elements of the pending claims is categorically wrong. The rejection set forth above addresses each and every limitation set forth in the claims. The fact that the applicant is unable to state which element has not been addressed should support this position.

1. Claims 17, 18, 21, and 22

Although the Examiner asserts that each and every limitation set forth in the claims has been addressed, as discussed above, it is improper to combine the Carlson and Palowsky references to teach the elements of the pending claims, a weighty drum circumferentially surrounding a portion of a guiding axis equal to a length of said weighty drum such that said weighty drum is capable of moving along said guiding axis, said guiding axis confining motion of said weighty drum between a front and a back of a motorcar. Thus, while the recovery device element of dependent claims 17, 18, 21, and 22 may be taught by Hanel, the braking buffer device claimed in the independent claim 12, upon which claims 17, 18, 21, and 22 depend, is still allowable over the teachings of Carlson and Palowsky.

2. Claims 23-25, 29, 30

On page 8 of the Examiner's Answer, the Examiner states the following:

> With regards to claims 23-25, 29, and 30, Powers is merely relied upon as teaching the concept of orienting a braking buffer at an angle relative to a normal surface. This improves the stabilization affect that the buffer has upon the vehicle during dynamic maneuvers, see column 3, lines 28-42. Powers goes on to teach that any number of angles are possible and that the buffer could further be adjustable as needed by the operator in response to changing conditions of the vehicle. As such an axis angle of between 1 and 4 degrees relative to the vehicle is clearly within the teachings of Powers.

Powers teaches that the stabilizer is mounted on a rear portion of the vehicle, and preferably rearwardly of the rear axle of the vehicle to be most effective. [Powers, col. 2, lines 43-46] The stabilizer has an inverted V-shaped hollow tubular housing for containing weights to counteract centrifugal forces on the vehicle and acts to *maintain the rear wheels of the vehicle in contact with the road surface*. [Powers, col. 1, lines 30-39]

Although the Examiner states that Powers teaches any number of angles are possible, Powers actually teaches that *the degree of bend or the angle at apex 26 of inverted V-shaped tubular member 20* may also vary in accordance with the size, weight, and handling characteristics of the vehicle. [Powers, col. 3, lines 29-32] In contrast, the limitation specified in dependent claims 23-25, 29, and 30 only provides for *a single tilt of the guiding axis*.

Even assuming that Powers teaches the use of a tilted guiding axis, as suggested by the Examiner, a guiding axis oriented in a direction transverse to the car does not work in the same way as a guiding axis oriented in a direction longitudinal to the car. Powers teaches that the transverse stabilizer has an inverted V-shaped hollow tubular housing for containing weights to counteract centrifugal forces on the vehicle and acts to *maintain the rear wheels of the vehicle in contact with the road surface*. [Powers, col. 1, lines 30-39] Because the claimed limitation in dependent claims 23-25, 29, and 30 provides for a linear guiding axis that is oriented longitudinal to the car and tilted toward the front wheels, the weighty drum will *move toward the front wheels* upon deceleration of the car. Thus, the weighty drum will produce a downward component of force *mostly on the front wheels* to increase frictional force and prevent slipping.

Also, as described above, it is improper to combine the Carlson and Palowsky references to teach the elements of the pending claims, a weighty drum circumferentially surrounding a portion of a guiding axis equal to a length of said weighty drum such that said weighty drum is capable of moving along said guiding axis, said guiding axis confining motion of said weighty drum between a front and a back of a motorcar. Thus, claims 23-25, 29, and 30 are allowable over the teachings of Carlson, Palowsky, and Powers.

IV. CONCLUSION

For at least these reasons, along with the reasons presented in Appellants' Appeal Brief, each of claims 12-30 has been improperly rejected. Accordingly, Appellant seeks reversal of the rejection of these claims.

Dated: July 24, 2008

Respectfully submitted,

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